

EXHIBIT A

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 KURTIS ARMANN, :
4 Plaintiff :
5 v. : C.A. No. 04-118 Erie
6 WARDEN, FCI McKEAN, :
7 Defendant :

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10 Hearing in the above-captioned matter held
11 on Wednesday, May 18, 2005, commencing at
12 at 2:20 p.m., before the Honorable Susan Paradise
13 Baxter, Courtroom B, United States Courthouse, 617
14 State Street, Erie, PA 16501.

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17 For the Plaintiff:

18 Kurtis Armann (Pro Se)
19 Thomas Patton, Esquire

20 For the Defendant:

21 Christine Sanner, Esquire, AUSA
22 Captain Jeffrey Phillips, JAG Corps.

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25 Reported by Janis L. Ferguson, RPR

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I N D E X

Transcript of Proceedings 3

1 THE CLERK: The case before the Court is Kurtis E.
2 Armann versus the Warden of FCI McKean. It's docketed at
3 No. 04-118-Erie. Mr. Armann is proceeding pro se.
4 Representing the Defendant is Christine Sanner of the U.S.
5 Attorney's Office and Captain Jeff Phillips of the JAG
6 Corps.

7 THE COURT: Good morning. We are here on the
8 motion of the Petitioner for an evidentiary hearing and also
9 a request for an item to be held -- to be seen in camera and
10 to be withheld from the defense, from the Respondent. Why
11 don't we start with that. All right?

12 Do you have the documents you wish for me to
13 see in camera in court today?

14 MR. ARMANN: My family brought them with them,
15 Your Honor.

16 THE COURT: Why don't I take a look at those right
17 now. Then, Mr. Armann, would you explain to me just briefly
18 why you wish for these to be held under seal, when, as I
19 understand it, they are documents that the Government has.

20 MR. ARMANN: These documents, I'm not absolutely
21 sure if the Government has them.

22 THE COURT: I see. Okay. And they can't see them
23 because?

24 MR. ARMANN: I haven't even got to look at them
25 yet, Your Honor. I couldn't get the documents into the

1 facility at McKean, because of the policy concerning mail.
2 So basically those documents have been out there since this
3 action was started -- before this action was started,
4 actually, while I was at Fort Leavenworth. And I still
5 haven't been able to review those documents.

6 I had to have an attorney out of Harrisburg,
7 which I wrote in my motion, Mr. Ostrowski out of Harrisburg.
8 He looked through them and said that I definitely need to
9 look at these documents, that they -- they bear directly on
10 this case, Your Honor.

11 (Discussion held off the record.)

12 THE COURT: At the outset, why don't we do that so
13 that the Petitioner can look at the documents with me. And,
14 Mr. Barton, you'll come with us and the court reporter. And
15 so give us about a half hour, and we'll be back. See if I
16 can make a ruling at that point.

17 (Proceedings adjourned to in-camera conference
18 room.)

19 THE COURT: We are back on the record. We are
20 inside my conference room; the Petitioner, the U.S. Marshal,
21 court reporter, my staff attorney, and myself. We are
22 looking at the documents. I am asking the Petitioner if he
23 knows who the letter is from and where it was found or how
24 it was discovered.

25 MR. ARMANN: In 2003, I received some mail at the

1 United States Disciplinary Barracks. It was marked from the
2 Kingdom of the Netherlands. It was Consulate. There was a
3 large book and some immigration information. I have never
4 sent to the Kingdom of the Netherlands for that information.

5 About four or five months after I received
6 that information, another letter came. It was really short,
7 and it says to look in the bind on the book. So I went into
8 the bind on the book, and there was a computer disk, but I'm
9 in prison, so --

10 THE COURT: You couldn't look at it.

11 MR. ARMANN: I couldn't look at it.

12 THE COURT: So these came off of the computer
13 disk.

14 MR. ARMANN: I'm assuming.

15 THE COURT: That's what you asked your father to
16 do.

17 MR. ARMANN: I sent those out of the facility,
18 because I knew there was something important there. And
19 this is after the Army had destroyed the device.

20 THE COURT: The device in your leg.

21 MR. ARMANN: Yes, ma'am. I became concerned that
22 there was more information on the disk, because it had come
23 to me, and so I mailed it out.

24 THE COURT: So you have no idea who sent you that.

25 MR. ARMANN: No, ma'am.

1 THE COURT: Let me just say one other thing. The
2 information contained in the documents, placed onto this
3 record will be kept under seal until further Order of the
4 Court.

5 (Pause in proceedings.)

6 THE COURT: Mr. Armann, can you take a look at the
7 second page of that document.

8 MR. ARMANN: Yes, ma'am.

9 THE COURT: Second document in the packet. There
10 is a security agreement on the left side. Do you see that?

11 MR. ARMANN: Yes, I do, Your Honor.

12 THE COURT: Is that your signature on the bottom?

13 THE WITNESS: Yes, it is, Your Honor.

14 THE COURT: Do you have any recollection of that?

15 MR. ARMANN: No, I don't, Your Honor.

16 (Pause in the proceedings.)

17 THE COURT: In 1995 it says you signed this
18 document. You were in the Army?

19 MR. ARMANN: Yes, Your Honor.

20 THE COURT: When did you enter the Army?

21 MR. ARMANN: I entered the Army on the 13th of
22 September, 1994, Your Honor.

23 THE COURT: So you had only been in the Army less
24 than a year.

25 MR. ARMANN: Less than a year.

1 THE COURT: I would like a copy of these papers to
2 be placed inside an envelope to be docketed under seal
3 temporarily until I rule. But I want to make sure they are
4 in the record now.

5 (Discussion held off the record.)

6 MR. ARMANN: Your Honor, this doesn't have page
7 numbers on it, but I'd like to point out Page 7.

8 THE COURT: Well, there are several of them that
9 say Page 7. Which one?

10 MR. ARMANN: Looks like that, Your Honor
11 (indicating).

12 THE COURT: That's what they took out of your leg?

13 THE WITNESS: Yes, it was, Your Honor.

14 THE COURT: You have no recollection of who E.A.
15 would be?

16 MR. ARMANN: No, Your Honor.

17 THE COURT: How are you piecing this together
18 before you saw these documents? Because, I mean, some of
19 this is accurate in your --

20 MR. ARMANN: Everything that I pieced together,
21 Your Honor, has been from --

22 THE COURT: From research or --

23 MR. ARMANN: From research or from the records
24 that the Army more or less gave to me.

25 THE COURT: Did they ever give you your medical

1 records?

2 MR. ARMANN: Sections of them, yes, Your Honor.

3 THE COURT: So you have those. Do I have those?
4 Are they in the file?

5 MR. ARMANN: You have actually the majority of
6 them.

7 THE COURT: I didn't go through all the
8 appendices. Okay. I did go through your writings. That's
9 how I see the similarities.

10 MR. ARMANN: A lot of this stuff is just too out
11 in left field.

12 (Pause in the proceedings.)

13 THE COURT: Is the description of your history
14 correct? Subject of parents to divorce. Do you see that
15 one?

16 MR. ARMANN: I have got to flip back through, Your
17 Honor.

18 THE COURT: It looks like this (indicating). What
19 I need for you to do is to identify for me that this is you.

20 MR. ARMANN: That kind of sums it up for me, Your
21 Honor.

22 THE COURT: So that you are identifying the
23 subject named in this profile as you.

24 MR. ARMANN: It appears so, Your Honor.

25 THE COURT: It seems like you? .

1 MR. ARMANN: Um-hum.

2 THE COURT: Thank you.

3 MR. ARMANN: There's some information following
4 it. It looks like background information, like an FBI
5 profile.

6 THE COURT: Yes. That's later. Some report.

7 (Pause in the proceedings.)

8 MR. ARMANN: One of these, Your Honor, looks like
9 a phone call between my stepfather and I from --

10 THE COURT: I see that.

11 MR. ARMANN: -- about 1996. It's back there a
12 ways.

13 THE COURT: It's further back. I'm just looking
14 at Page 36.

15 (Pause in the proceedings.)

16 THE COURT: Do you wish to have an attorney
17 appointed?

18 MR. ARMANN: Yes, I do, Your Honor. I move to
19 have an attorney appointed.

20 THE COURT: There is a request pending from
21 Petitioner to have an attorney appointed. I will suggest
22 that the Federal Public Defender look at the files and see
23 if he wishes to accept the appointment. I have no power to
24 require someone to represent you, so he will have to accept
25 that appointment. Do you understand?

1 MR. ARMANN: I understand, Your Honor.

2 THE COURT: All right. His motion is granted.

3 Then he can come back.

4 (Pause in the proceedings.)

5 THE COURT: I am more concerned at this stage,
6 having been through half of the documents, with the issue of
7 whether or not they should remain under seal in the docket
8 or be in the public record than I am whether or not the
9 Respondent should see them. I don't believe I have to read
10 the rest of these to realize that the Respondent should see
11 them. I think that because it takes a while to get through
12 them, perhaps we should make another copy and invite the two
13 attorneys back; Miss Sanner and Captain Phillips.

14 (Discussion held off the record.)

15 THE COURT: It should no longer be an ex parte
16 proceedings. So have them come on down, and we'll give them
17 a set.

18 (Pause in the proceedings.)

19 THE COURT: I am not embarrassed to say to you
20 that I am -- my heart is beating at a fast rate, and I am
21 actually somewhat affected by the documents.

22 MR. ARMANN: I am sweating, Your Honor.

23 (Pause in the proceedings.)

24 MR. ARMANN: Is there any way, Your Honor, that we
25 could get my NCIC or NCIS, my --

1 THE COURT: Your attorney can ask for that.

2 MR. ARMANN: My fingerprint identification.

3 THE COURT: I see. To see if that's your
4 fingerprint?

5 MR. ARMANN: Yes.

6 THE COURT: Your attorney can do those kinds of
7 things. I am not going to order that. At least not at this
8 point.

9 (Pause in the proceedings.)

10 THE COURT: Your signature looks less steady in
11 this second one than it did in the first one. Do you see
12 which one I mean there at the end of that packet? I'm not a
13 handwriting expert. It looks similar enough, but it looks
14 more childish, if you understand what I'm saying.

15 MR. ARMANN: I understand, Your Honor.

16 THE COURT: Interesting. It's the difference
17 between August and December of that year.

18 (Discussion held off the record.)

19 (Captain Phillips and Attorney Sanner enter
20 conference room.)

21 THE COURT: Could you two come over here, Captain
22 Phillips and Miss Sanner.

23 I have not determined whether or not to allow
24 them to be placed out of seal in the record, but I have --
25 I'm not finished reading them all, but I am determined,

1 having been through half of them, that the Respondent has a
2 right to see them. So you go ahead and read them. And
3 whatever we are saying or putting on the record, it also
4 became clear to me that I did not want this to any longer be
5 an ex parte proceeding. All right?

6 CAPTAIN PHILLIPS: All right.

7 THE COURT: He has asked, and I have granted his
8 request for counsel. If the Federal Public Defender is
9 willing to take it on. He is coming shortly. When he
10 comes, he is also going to be allowed in. And that occurred
11 during the ex parte conference.

12 (Discussion held off the record.)

13 MR. ARMANN: Captain Phillips? Am I allowed to
14 address --

15 THE COURT: Ask him questions? Not at this time.
16 Let him just read.

17 (Pause in the proceedings.)

18 THE COURT: He has on the record said that that is
19 his signature on that document, Captain Phillips. He does
20 not recall signing it.

21 (Pause in the proceedings.)

22 CAPTAIN PHILLIPS: Your Honor, may I interrupt?

23 THE COURT: Yes. Have you been through it all?

24 CAPTAIN PHILLIPS: I read this (indicating) in
25 depth, and I skimmed through it to get a sense of what the

1 rest of it was. I'm familiar with classified documents and
2 documents from other federal agencies. And what I would
3 like to do is to go back to the courtroom and make some
4 notes in anticipation that you might want to hear a short --
5 a short argument from the Government's side about what these
6 might be and what we might want to -- what the Government
7 can suggest as a next step from our perspective.

8 THE COURT: That's fine. Do you have any problem
9 with my sharing them with the Public Defender?

10 CAPTAIN PHILLIPS: Oh, not at all.

11 THE COURT: All right, that's fine. Thank you,
12 Your Honor. I'll just leave that copy for you.

13 THE CLERK: That's your copy.

14 THE COURT: Do you have a copy of those?

15 CAPTAIN PHILLIPS: No, but I'll take them.

16 THE COURT: They are under seal at this point.
17 They are under seal from the public. What we're going to do
18 is let Mr. Patton meet with Mr. Armann, and we'll leave this
19 location when he comes. I'm going to continue reading.

20 (Captain Phillips and Attorney Sanner leave
21 conference room.)

22 (Discussion held off the record.)

23 MR. PATTON: Your Honor, I'm going to have a
24 chance to speak with Mr. Armann here in chambers, but since
25 he is in custody, the United States Marshal's Officer needs

1 to be in the room with us. I just move that you make a
2 ruling that the presence of the Marshal does not waive the
3 attorney/client privilege.

4 THE COURT: That motion is granted.

5 MR. PATTON: And the Marshal is prohibited from
6 disclosing anything that was discussed in the meeting.

7 THE COURT: You understand, Mr. Barton?

8 MR. BARTON: I understand completely.

9 (Proceedings adjourned from 11:02 a.m. till 11:25
10 a.m.)

11 (Proceedings resumed in camera with Judge Baxter,
12 the court reporter, Attorney Sanner, and Captain
13 Phillips.)

14 THE COURT: All right, Captain Phillips, go ahead.

15 CAPTAIN PHILLIPS: Thank you, Your Honor.

16 Your Honor, I just called my supervisor back
17 in Washington to confirm what I was -- what had sort of
18 become apparent to me.

19 What I'd like to say first, Your Honor, is
20 that if you and the Court are taking what has been provided
21 by Mr. Armann in a serious light, in a non-farcical light --

22 THE COURT: Well, it's either -- it's either a
23 script for a TV show or it's real. I don't think there's
24 any gray.

25 CAPTAIN PHILLIPS: Okay. If it's the latter, and

1 if you choose to look at it as real evidence, then what we
2 would have to do is because he implicates another federal
3 agency, the CIA pretty much, they would, as equity holders
4 of potentially classified information, have to look at that
5 information, confirm its classification review status.
6 Anybody that is potentially looking at this evidence would
7 have to have a classification clearance of that commensurate
8 level.

9 THE COURT: I have already read it.

10 CAPTAIN PHILLIPS: And what would have to happen,
11 then, is that if it was classified and somebody without a
12 classified status reviewed it, they would have to get
13 debriefing from CIA about what to do next.

14 But what I would recommend, Your Honor, is
15 that if you think this is something that would -- that is of
16 that nature, then what we -- what I recommend, and what the
17 Government's position is, is that we take the evidence, give
18 it to the CIA and to the general counsel there. And I have
19 contacts there that would be ready to take it. They would
20 then send it to the appropriate folks in their agency. They
21 would do a classification review -- just noting, Your Honor,
22 for instance, having tried classified cases with classified
23 material, confidential is one of the lowest classification
24 levels there are. There's top-secret. That's actually
25 compartmentalized for --

1 THE COURT: I have a clearance up to a certain
2 point as well. So I understand that somewhat.

3 CAPTAIN PHILLIPS: Then it was down to top-secret,
4 then secret, and so forth. So potentially a project like
5 this, it would sort of involve mind experiments and --

6 THE COURT: You would not expect it to be at the
7 confidential level.

8 CAPTAIN PHILLIPS: No. Because that is where
9 you're protecting people's confidential information, like
10 bank records, house records, something like that. Something
11 not at a national security level, but something that would
12 protect somebody's privacy.

13 So on the face of it, looking at the
14 documents, it is the Government's position that this is
15 something developed by Mr. Armann and now being used by him
16 at the same time. But if Your Honor thinks differently and
17 wants to look at this in a different light, then I think, as
18 both officers of the Court and as a Government attorney, I
19 think that I have an obligation to articulate sort of what
20 the process is, as I know it. And at a minimum we would
21 have to give it to the equity holder, the person that owns
22 classified information so we can understand where it's been,
23 give it a proper classification, confirm that, and give it
24 back to you for your use.

25 And then if you were then to use it, and if

1 it -- if it turned out to be classified information, real
2 evidence, then we would have to -- there are things that I
3 would assume you would talk to somebody here about; you
4 know, closed courtroom. There would be motions about the
5 use of classified information. If it was real and it was
6 classified, the CIA may not give it up for its use in
7 litigation and so forth. And so -- but that would all be
8 downstream.

9 THE COURT: Well, we have it under seal in the
10 docket. She has written down how many copies we have made
11 and who has looked at them; my courtroom deputy. So we have
12 all that information. I don't see why we shouldn't have
13 them take a look at it.

14 But the Court will tell you now, I mean, I
15 will not make a decision as to the -- its credibility
16 determination solely on the response of the -- of your
17 authorities. Because it's been presented to me as evidence
18 in a civil case.

19 CAPTAIN PHILLIPS: Right.

20 MS. SANNER: I was going to mention -- I'm not
21 sure, because I came relatively late into these
22 proceedings -- I'm just standing in for Christy Wiegand --
23 but I kind of thought he had had the opportunity to raise
24 this earlier. That it doesn't necessarily fit within the
25 newly discovered evidence. But, again, I'm not familiar

1 with the --

2 THE COURT: As to exhaustion, you mean?

3 MS. SANNER: Right. And I think he has got
4 collateral civil claims as well.

5 CAPTAIN PHILLIPS: He does. And I brought for
6 Your Honor -- and I was going to give this to Your Honor in
7 the courtroom, and Your Honor can tell me when you think
8 it's best. He has another civil litigation action that our
9 civil litigation division is covering right now. He has
10 named 26 individuals in this action with similar sort of
11 claims --

12 THE COURT: Civil rights? Is this a civil rights
13 case?

14 CAPTAIN PHILLIPS: It's actually -- he's asking
15 for monetary damages.

16 THE COURT: It might be a prisoner civil rights
17 case. Go ahead.

18 CAPTAIN PHILLIPS: So we have drafted a similar
19 sort of brief to the one that -- to the habeas brief as
20 well. The Army being of counsel. Obviously, the U.S.
21 Attorney has signed it. We wanted you to have that so you
22 can see sort of that he's making somewhat similar claims in
23 another Federal Court, the D.C. District.

24 THE COURT: Okay.

25 CAPTAIN PHILLIPS: And so I have that for you as

1 well.

2 THE COURT: Thank you.

3 CAPTAIN PHILLIPS: But that's all I wanted to say,
4 Your Honor, is that if --

5 THE COURT: I think we'll just have to suspend
6 proceedings today --

7 CAPTAIN PHILLIPS: And send this off.

8 THE COURT: And I'll wait to hear from you. How
9 long of a time does that take?

10 CAPTAIN PHILLIPS: A classification review, Your
11 Honor, will take -- it's hard to say, because what they will
12 do is they will ship it out to whichever part of the agency
13 may have jurisdiction over a matter like this, that would do
14 something like counter-espionage or whatever they do. They
15 would then have a classification review officer look at the
16 data, determine whether or not it's something that they
17 actually do, if they do it. If this is real, they would
18 confirm its classification status. And -- or they would
19 basically provide a letter --

20 THE COURT: If they say it's not, then you're
21 going to have to explain that to me as an objection to its
22 being placed into evidence. I mean, that's -- it would be a
23 very procedural, technical --

24 CAPTAIN PHILLIPS: Right. If they say this is
25 not -- we don't own this, then you would have to decide --

1 THE COURT: I would have to rule on that.

2 CAPTAIN PHILLIPS: All right. I have Armann
3 saying one thing, I have the CIA saying another thing.

4 THE COURT: The only thing other than that, that I
5 will say is now that I have allowed Mr. Patton to take a
6 look at the case and decide whether or not -- you know, I
7 have no power in a civil case to require someone to take the
8 case. So if he decides to take the case and he proceeds
9 legally in any way with any motion or anything, we're just
10 going to continue. I'm not going to place it in hold
11 status, or I'm not going to stay the case at this point.

12 CAPTAIN PHILLIPS: Okay.

13 THE COURT: All right? So we'll see what comes
14 from the Petitioner, and then we'll go from there.

15 Quite candidly, I'm not even sure if
16 successful on the Petition for Writ of Habeas Corpus, if I'm
17 allowed to order the military courts to retry or -- so we
18 have lots of work to do. We have lots of work to do.

19 CAPTAIN PHILLIPS: And just, Your Honor, do you --
20 do you need any information about the process that the
21 military -- the military trial process and the appellant
22 trial process?

23 THE COURT: Well, you know, there is an exhaustion
24 requirement, so I think that any response that the claims
25 are unexhausted -- and I have no jurisdiction to encompass

1 that, so we'll just see how that goes.

2 All right. I thought, since everybody was
3 here, this would be a great time to have an evidentiary
4 hearing. But I see that that was totally naive on my part,
5 and I don't think that that is at all -- we get off in a
6 whole new world.

7 (Discussion held off the record.)

8 THE COURT: You were giving me a history of some
9 of the litigation the Petitioner has.

10 CAPTAIN PHILLIPS: Yes, Your Honor. There has
11 been litigation -- although I don't have a record, but I
12 will provide that to the Court -- that Mr. Armann had
13 against the facility at Leavenworth, at the facility in
14 Ohio, and now obviously this one in Pennsylvania. In
15 addition to his other civil claims --

16 THE COURT: Similar petitions?

17 CAPTAIN PHILLIPS: To some degree, yes, Your
18 Honor. I'll to have get the records of that --

19 THE COURT: You have to. We have to know whether
20 or not he's a successive petition.

21 CAPTAIN PHILLIPS: That just came up literally the
22 day before I traveled up here. All I was able to get was
23 his current action that he has against the 26 --

24 THE COURT: And that would not be a successive
25 petition, because that sounds like a civil rights case.

1 CAPTAIN PHILLIPS: Although he does name as a
2 Co-Defendant the director of the CIA in that one.

3 THE COURT: But they are a whole different -- I
4 mean, he is going here to be --

5 CAPTAIN PHILLIPS: To be released from
6 confinement.

7 THE COURT: To be released under a writ. The
8 thing is, if he has -- under the federal law, if he has
9 brought a petition similar to this one in the past, then
10 he's not allowed to just file a writ here. He has to go to
11 the Circuit. And I rely on the Respondent, the Government,
12 to tell me that. I don't do that research. So I don't know
13 whether he has. So your Ohio and Leavenworth -- is in
14 Kansas -- those would be important things to know. All
15 right? Because those are not in the current response. The
16 response was done by Miss Weigand, I believe.

17 MS. SANNER: Yes, in Pittsburgh.

18 CAPTAIN PHILLIPS: And she wouldn't have known
19 that either until just now.

20 MS. SANNER: Right.

21 THE COURT: Well, I mean, you read the petition,
22 and you wonder about the sanity of the Petitioner. And I
23 think that's what she did. Candidly. What is the docket
24 entry for her response?

25 THE CLERK: It should just say response or answer,

1 Your Honor.

2 (Discussion held off the record.)

3 THE COURT: She just gave us a standard of review,
4 which is different than our typical habeas review.
5 Exhaustion of military remedies. Okay. She went straight
6 through that, and says that he has exhausted, so she went
7 straight to the merits. All right. Then she treated it as
8 a regular habeas.

9 All right. I think that's a plan. Perhaps
10 we should go out, and I will just continue the case.

11 CAPTAIN PHILLIPS: And will you provide a date,
12 Your Honor, at this point that we should have to hit to have
13 the classification review completed?

14 THE COURT: You don't want that on the record out
15 there?

16 CAPTAIN PHILLIPS: Okay.

17 THE COURT: You don't want that on the record out
18 there?

19 CAPTAIN PHILLIPS: Okay.

20 THE COURT: Do you want it on the record?

21 CAPTAIN PHILLIPS: Okay.

22 THE COURT: I don't know the time they need. A
23 month, two months?

24 CAPTAIN PHILLIPS: Probably closer to the latter.
25 What I'll do, as soon as I get in contact with the general

1 counsel's office at the agency, I will get something back to
2 this Court.

3 THE COURT: I will, in fact, not give you a date
4 certain and just ask for it to be done as quickly as
5 possible with your notice to the Court of a likely time
6 period, when you know.

7 CAPTAIN PHILLIPS: Yes, Your Honor.

8 MR. FOGL: Will you be the primary contact?

9 MS. SANNER: I will.

10 THE COURT: I don't want to suspend the hearing
11 until Mr. Patton has had a time to speak with the
12 Petitioner, because he's going to be shipped back to McKean.
13 Do you have a plane?

14 CAPTAIN PHILLIPS: No, I'm driving back to
15 Washington, D.C.

16 (Discussion held off the record.)

17 (Proceedings adjourned in camera at 11:26 a.m.)

18 (Proceedings resumed in open court at 11:48 a.m.)

19 THE COURT: This is the -- this is the plan: We
20 are going to adjourn today and continue the matter until a
21 date not certain, when we will reconvene. Captain Phillips,
22 would you like to -- you will contact us when we can
23 reconvene. We're hoping it will be no later than 60 days.

24 CAPTAIN PHILLIPS: Yes, Your Honor.

25 THE COURT: We have -- the Court has granted your

1 motion for appointment of counsel, if Mr. Patton is willing
2 to take the case. Have you made a decision?

3 MR. PATTON: Yes, ma'am, I will accept the case.

4 THE COURT: Then we will sign that order for his
5 appointment. And until we reconvene, the only other
6 decisions that have been made have been that the motion was
7 denied to keep the documents from the Government, and, in
8 fact, the Government -- the respondent has been given a copy
9 of the documents. And that the documents are in the docket
10 placed under seal at this time.

11 MR. PATTON: Your Honor, can we get an idea of
12 what the hearing is to be on when we come back?

13 THE COURT: Yes. This hearing today was based on
14 his motion for me to look at these documents in camera. And
15 so that's what we did first. I had originally planned,
16 since we were here, to have an evidentiary hearing on the
17 petition. Because at that time he had not sent me a motion
18 for appointment of counsel. It became clear to me when I
19 started looking at the documents that that was going to be a
20 difficult thing to do today.

21 What we will do when we come back is that
22 Captain Phillips will have had authorities look at the
23 documents, and he is going to make an argument on their
24 authenticity.

25 MR. PATTON: Will that be the sole purpose of the

1 next hearing?

2 THE COURT: That may change. Now, that's how I'm
3 looking at it, but that may change. It may be an
4 opportunity with everyone here to have an evidentiary
5 hearing, so. But you will get -- be given full notice of
6 that, if that's the case.

7 All right. Anything, Captain Phillips?

8 CAPTAIN PHILLIPS: No, Your Honor.

9 THE COURT: Anything else, Mr. Patton?

10 MR. PATTON: No ma'am.

11 THE COURT: Then we are continued until the Court
12 calls another hearing on this matter. Thank you.

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14 (Hearing adjourned at 11:51 a.m.)

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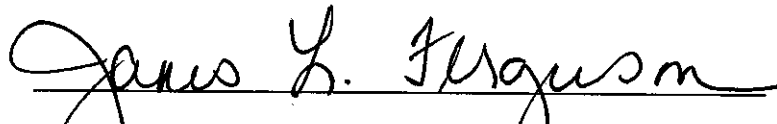
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C E R T I F I C A T I O N

I, Janis L. Ferguson, a Court Reporter and
Notary Public in and for the Commonwealth of
Pennsylvania, do hereby certify that the foregoing
is a true and accurate transcript of my
stenographic notes in the above-captioned matter.


Registered Professional Reporter

Dated: 5-13-05